

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS_____
ROBERT P. LYNCH,

Plaintiff,

-against-

ROMAN CATHOLIC DIOCESE OF BROOKLYN,
ST. RAPHAEL CATHOLIC PARISH, FATHER
JAMES I. FROST, and FATHER JAMES K.
CUNNINGHAM,Defendants.

X

:

:

:

:

:

:

:

:

:

:

:

:

X

Index No. _____/2019

Date Purchased: August 14, 2019

SUMMONSPlaintiff designates Kings County as
the place of trial.

The basis of venue is CPLR § 503

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the date of service (or within 30 days after the service is complete if the summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded.

Dated: New York, New York
August 14, 2019

SULLIVAN & WORCESTER LLP

By: /s/ Peter R. Ginsberg

Peter R. Ginsberg

Anna Lea Setz

1633 Broadway
New York, New York 10019
(212) 660-3000
prginsberg@sullivanlaw.com
asetz@sullivanlaw.com*Attorneys for Plaintiff*

To:

Roman Catholic Diocese of Brooklyn
310 Prospect Park West
Brooklyn, New York 11215

St. Raphael Catholic Parish
35-20 Greenpoint Avenue
Long Island City, New York 11101

Father James I. Frost

Father James K. Cunningham

Defendants

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS_____
ROBERT P. LYNCH,

Plaintiff,

-against-

ROMAN CATHOLIC DIOCESE OF BROOKLYN,
ST. RAPHAEL CATHOLIC PARISH, FATHER
JAMES I. FROST, and FATHER JAMES K.
CUNNINGHAM,Defendants.

x

:

:

:

:

:

:

:

:

:

:

:

:

X

Index No. _____/2019

COMPLAINT**JURY TRIAL DEMANDED**

Plaintiff Robert P. Lynch, by his undersigned attorneys, for his Complaint against defendants Roman Catholic Diocese of Brooklyn (the “Diocese”), St. Raphael Catholic Parish (the “Parish”), Father James I. Frost (“Father Frost”) and Father James K. Cunningham (“Father Cunningham”) (collectively, “Defendants”), alleges as follows:

I. NATURE OF THE ACTION

1. This is an action by Mr. Lynch to hold Defendants responsible for the prolonged, egregious sexual abuse that Mr. Lynch had to endure as a teenager by two priests, the failure of the Diocese and the Parish to stop or prevent such abuse, and the outrageous re-victimization Mr. Lynch suffered when the Diocese forced him to face his abusers without warning and without support. Due to Defendants’ abominable behavior toward Mr. Lynch, Mr. Lynch suffered personally and professionally, and continues to suffer to this day.

2. Mr. Lynch was born and raised in an observant Catholic family. His family attended church every week and his parents sent their children to Catholic schools.

3. In 1991, Mr. Lynch’s father died unexpectedly. In addition to the devastation of this sudden loss, his death put the Lynch family in dire financial condition. When Mr. Lynch’s

mother could no longer afford the tuition for Mr. Lynch's school, she contacted the principal, Bishop Catanello, to withdraw Mr. Lynch from the school. As a supposed act of kindness, Bishop Catanello allowed Mr. Lynch to attend the school tuition-free if he performed certain Church-related tasks. As a result, Mr. Lynch came to feel deeply indebted to the school and Church and became even more involved in the Parish.

4. It was during this time that Father Frost took advantage of Mr. Lynch's vulnerability, while pretending to engage as a father figure in Mr. Lynch's life.

5. In 1992, when Mr. Lynch was about sixteen years old, Father Frost began to abuse him sexually. The abuse, spanning at least two years, caused tremendous pain and suffering in the young teenager.

6. Mr. Lynch was not Father Frost's only victim—it is now known, and was or should have been known to those inside the Church during the time of abuse, that Father Frost was engaging in a horrendous pattern of sexual abuse of multiple minors. Neither the Diocese nor the Parish did anything to prevent or stop these transgressions by Father Frost.

7. A few years later, Mr. Lynch fell victim to another abusive priest within the Diocese, Father Cunningham. This time, Mr. Lynch was able to escape his abuser and prevent Father Cunningham's rape attempt. Also, he finally mustered the strength to report the incidents of abuse to the Diocese.

8. Rather than help the distressed victim, the Diocese ordered Mr. Lynch to attend a meeting and—without warning or support—forced him to face Father Frost and Father Cunningham, to recount as best he could under the circumstances the horrific incidents, and to listen to the perpetrators' lies and denials.

9. Mr. Lynch was re-victimized by the meeting, contributing to his ongoing pain and emotional distress.

10. The Diocese did nothing to rectify Mr. Lynch's suffering: both Father Frost and Father Cunningham continued as priests and the Diocese did not contact Mr. Lynch again for over twenty years.

11. With this action, Mr. Lynch seeks to hold Defendants accountable for the humiliation, pain and suffering he has endured during and as a result of the sexual abuse and the resulting trauma that has affected all aspects of his life. In particular, Father Frost and Father Cunningham must remedy Mr. Lynch's damages caused by battery, assault and false imprisonment. The Diocese and the Parish must remedy Mr. Lynch's damages caused by their gross negligence and negligence in failing to prevent, stop, investigate and remedy the abuse inflicted by people for whom they were responsible as well as their failure properly to hire, train and supervise Fathers Frost and Cunningham. All Defendants caused injury and damages due to intentional infliction of emotional distress, breaches of their fiduciary duties and their conspiracy to conceal and cover up the abuse.

12. On February 14, 2019, New York enacted the Child Victims Act ("CVA") to amend the statute of limitations and revive liability for certain claims based on sexual abuse that had been previously barred by the statute of limitations.¹ The CVA opens a one-year window for victims to commence civil actions for sexual abuse and any related claims based on intentional or negligent acts or omissions. Pursuant to the CVA, such actions can be commenced starting on August 14, 2019.

¹ See CPLR § 214-g, which extends the statute of limitations for "every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age"

13. Mr. Lynch is qualified to commence this action under the CVA because, as described herein, he suffered injury from sexual abuse and intentional and negligent acts and omissions connected to sexual abuse while he was under eighteen years old, and because his claims were previously barred by the statute of limitations.

II. JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Defendants pursuant to CPLR § 301 in that, upon information and belief, each Defendant resides in New York.

15. Venue is proper in this Court pursuant to CPLR § 503, in that one or more Defendant resides in this County.

III. THE PARTIES

16. Robert P. Lynch is an individual residing in Queens County, New York.

17. The Diocese is a domestic Not-For-Profit Organization duly existing under the laws of the State of New York and has its Diocesan offices in the County of Kings, New York. The Diocese is comprised of the boroughs of Brooklyn and Queens and operates the Catholic school system in both boroughs. At the relevant times at issue, until 2003, Thomas v. Daily (“Daily”) was the Bishop of the Diocese.

18. The Parish is a domestic Not-For-Profit Organization duly existing under the laws of the State of New York.

19. Father Frost is, upon information and belief, a resident of the State of New York.

20. Father Cunningham is, upon information and belief, a resident of the State of New York.

IV. FACTS

Background

21. Mr. Lynch was born in New York on January 9, 1976 and raised in an observant Catholic family.

22. The family attended church at the Parish every week and both Mr. Lynch's father and mother worked for the Parish at one time or another.

23. All the children of the Lynch family went to Catholic schools. From first to eighth grade, Mr. Lynch went to the St. Raphael School of the Parish. In ninth grade, he entered the Cathedral Preparatory School and Seminary ("Cathedral Prep") with the belief that he ultimately would devote his adult life to the Parish.

24. In 1991, when Mr. Lynch was just 15 years old, Mr. Lynch's father suffered a heart attack while working at the Parish and passed away. The sudden death of the father and breadwinner left Mr. Lynch and his family in a dire financial condition.

25. When the family could no longer afford the tuition for Mr. Lynch's attendance at Cathedral Prep, the school principal, Bishop Catanello, allowed Mr. Lynch to attend the school without being charged a tuition.

26. Feeling deeply indebted to the school and Church, Mr. Lynch worked hard to get good grades, became further involved in the Parish and continued to consider becoming a priest himself.

27. Bishop Catanello's supposed act of kindness soon turned into a curse.

Father Frost Abuses Mr. Lynch Between 75 and 100 Times

28. While attending Cathedral Prep, Mr. Lynch often served as an altar boy during mass at the Parish and worked in the Parish's rectory for and with Father Frost.

29. After the death of Mr. Lynch's father, Father Frost pretended to take over the role of a father figure and guidance counselor for Mr. Lynch. Mr. Lynch, looking for a father figure and thinking about becoming a priest himself, looked up to Father Frost and saw him as mentor.

30. In or about 1992, when Mr. Lynch was 16 years old, Father Frost began to abuse Mr. Lynch sexually.

31. It started when Father Frost—still pretending to replace Mr. Lynch's father—accompanied Mr. Lynch to a doctor's appointment where Mr. Lynch had a procedure performed. Instead of waiting outside, Father Frost went with Mr. Lynch into the examination room and watched him while he changed into a surgical gown. Mr. Lynch felt uncomfortable and embarrassed but did not dare to say anything.

32. Shortly after this incident of inappropriate voyeurism, Father Frost escalated the abuse and started to fondle and misuse Mr. Lynch on a regular basis.

33. Father Frost would catch Mr. Lynch when he was working alone at the Parish after school. Usually, Father Frost would forcibly remove Mr. Lynch's pants and underwear, fondle Mr. Lynch's penis and rub his erect penis on Mr. Lynch. Or, Father Frost would lie on top of Mr. Lynch and grind his erect penis on Mr. Lynch's buttocks.

34. These incidents occurred between 75 and 100 times spanning at least two years.

35. Mr. Lynch never consented to any of these sexual acts. Rather, he felt deeply humiliated, frightened and helpless.

36. Mr. Lynch not only felt the shame, confusion and fright that many victims feel, he also concluded that he would be forced to leave Cathedral Prep if he sought assistance after the abuse started and thought he had no choice but to remain silent and to withstand the abuse.

37. The Diocese had no functional policy or oversight to prevent a priest, in particular Father Frost, from being alone with a minor or young adult and from engaging in sexual abuse.

38. It is now known that Mr. Lynch was not the first of Father Frost's victims. In October 2003, Father Frost was sued by another victim, whom Father Frost sexually abused as a child from approximately 1977 to 1984 in various parishes of the Diocese.

39. The Diocese knew of the allegations of sexual abuse against Father Frost. In 2003, twenty-seven victims alleged in a lawsuit that they were raped, sodomized and otherwise sexually abused as children in the 1950s, 1960s, 1970s and 1980s by twenty-four priests, three of whom were still working in the Diocese when the lawsuit commenced, including Father Frost. One victim claimed that Father Frost abused him for eight years, beginning when the victim was ten years old. The victim claimed that he met Father Frost at the Holy Innocents Parish and that the abuse continued even after Father Frost was reassigned twice—first to Saint Mark Parish and then to Saint Sebastian Parish.

40. Rather than take appropriate measures to stop the sexual abuse by priests and to punish those responsible and assure that the abuse would not continue, the Church,² the Diocese, including the Diocese's then-acting prelate, Bishop Daily,⁴ and the Parish did their collective best to hide, conceal and cover up the potential scandal. To this end, as alleged in the 2003 lawsuit, Father Frost was moved from parish to parish to cover up, and hide from, claims of

² As the United States Conference of Catholic Bishops stated in its 2002 "Charter for the Protection of Children and Young People": "The Church in the United States is experiencing a crisis without precedent in our times. The sexual abuse of children and young people by some priests and bishops, and the ways in which we bishops addressed these crimes and sins, have caused enormous pain, anger, and confusion. . . . In the past, secrecy has created an atmosphere that has inhibited the healing process and, in some cases, enabled sexually abusive behavior to be repeated." Despite this 2002 resolution, it took the Diocese another 15 years to contact Robert about the pain and injury he has suffered.

⁴ Bishop Daily was named as a defendant in dozens of lawsuits filed by victims of clergy abuse in the Boston and Brooklyn Dioceses. Most infamously, while he was Chancellor and Vicar General in the Diocese of Boston, he knowingly allowed Father Geoghan—a serial child rapist—to continue as a priest in the same parish. Daily had known of Geoghan's behavior as early as 1980, but did nothing to stop or prevent further abuses, which continued until Geoghan's retirement in 1993.

sexual abuse. Shortly after Mr. Lynch reported the abuse by Father Frost, in 1999, the Diocese again transferred Father Frost, this time from Saint Raphael Parish to Corpus Christi Parish.

41. During his tenure as a priest of the Diocese from 1976 until 2002, Father Frost was transferred to six different parishes within the Diocese.

42. After Mr. Lynch reported the abuse by Father Frost to the Diocese and the Parish, Father Frost was allowed to continue to be a priest for another six years.

Father Cunningham Tries to Rape Mr. Lynch

43. Father Frost's abuse left Mr. Lynch vulnerable to sexual abuse by another priest, Father Cunningham.

44. Although this second round of abuse occurred when Mr. Lynch had only recently reached the age of majority, it cannot fairly or accurately be separated from Father Frost's abuse of Mr. Lynch when he was a minor.

45. When Mr. Lynch was living in the college seminary, Father Cunningham, clearly sensing a defenseless and confused victim, developed what Mr. Lynch believed was a normal mentoring relationship but which in fact was a relationship designed for Father Cunningham to prey upon Mr. Lynch.

46. In the fall of 1996, Father Cunningham arranged to be alone with Mr. Lynch in Cunningham's room at the Good Sheperd Parish in Brooklyn and ambushed him with an attempted rape effort.

47. After pretending to be "wrestling," Father Cunningham suddenly pinned Mr. Lynch down on the bed, started kissing his neck, forcibly pulled down his pants and began to fondle Mr. Lynch's penis, trying to get him aroused.

48. Mr. Lynch struggled to get free and, eventually, was able to kick Father Cunningham in the groin to get out from underneath him and flee the scene.

49. Unlike when the abuse by Father Frost was occurring, Mr. Lynch summoned the internal fortitude to report Father Cunningham to Church authorities.

50. The Diocese had no functional policy or oversight to prevent a priest, in particular Father Cunningham, from being alone with a minor or young adult and from engaging in sexual abuse.

The Diocese Re-Victimizes Mr. Lynch

51. Mr. Lynch contacted Auxiliary Bishop Catanello, his mentor and former Principal at Cathedral Prep, and gathered the courage to provide information about both Fathers Frost and Cunningham.

52. Rather than giving him support and comfort, the Church authorities abused Mr. Lynch not physically but psychologically.

53. In February 1997, shortly after contacting Auxiliary Bishop Catanello, Mr. Lynch was summoned to the Diocese. Without warning or being provided with any support, and barely 21-years old, Mr. Lynch was lead into a room where first he faced Father Frost and then Father Cunningham.

54. Mr. Lynch was forced to recount the sexual abuse in the presence of his abusers and then listen to their false denials.

55. The trauma of being subjected to this process was immense. The meeting clearly was designed to intimidate Mr. Lynch and prevent him from pursuing or reporting his claims.

56. The Diocese and the Parish refused to support Mr. Lynch in overcoming his trauma and they refused to take any remedial actions against the priests. Father Frost continued to be a priest until 2002. Father Cunningham remains a priest in good standing in the Diocese.

57. Upon information and belief, the Diocese and the Parish never investigated Mr. Lynch's allegations against Fathers Frost and Cunningham or contacted law enforcement about the abuse.

58. Mr. Lynch was re-victimized and traumatized by being forced to face his abusers, without notice or support, and by realizing that his abusers were not seeing any consequences whatsoever.

Mr. Lynch's Pain and Suffering is Tremendous and Ongoing

59. The abuse by Fathers Frost and Cunningham and the outrageous meeting the Diocese orchestrated left Mr. Lynch shaken. The pain, emotional distress and anger has had and continues to have a deep effect on all aspects of Mr. Lynch's life.

60. First, Mr. Lynch lost his faith. He stopped going to church and dropped his plans of becoming a priest. At the time of the re-victimization by the Diocese, Mr. Lynch was a philosophy major at St. John's University and planned to add theology to his studies. He gave up this plan and changed his major to criminal justice. He eventually became a police officer—a profession likely chosen in an unconscious attempt to compensate for his feelings of inferiority and insecurity.

61. Further, Mr. Lynch's confidence has been significantly diminished, in particular with regard to women. He eventually married but he does and always did struggle with intimacy.

62. Also, for the majority of his marriage, Mr. Lynch was not able to talk about the sexual abuse he endured as a minor and young adult. Indeed, Mr. Lynch was not able to tell his wife about the abuse until 2017. This and the problems with intimacy have put an enormous strain on his marriage.

63. Further, Mr. Lynch experienced a severe blow to his career as a result of his insecurities and fear of intimacy. In an effort to avoid intimacy, he began to engage in fantasies. As a police officer, this lead him to inquire into the arrests of other departments, including the arrest of a prostitute. The Internal Affairs Bureau deemed this focus on others' investigations to be a concern and, after an internal police investigation, took away Mr. Lynch's gun and shield and forced him into early retirement.

64. According to his therapist, Mr. Lynch's compulsion toward fantasy and avoidance of real intimate contact is clearly linked to the sexual abuse that began with Father Frost and was continued by Father Cunningham.

65. In May 2018, Mr. Lynch saw Father Cunningham again for the first time since the Diocese's confrontational meeting and the feelings of shock, disgust, anger and frustration overwhelmed him. The fact that Father Cunningham is able to walk away from the sexual abuse without consequence, while Mr. Lynch has to suffer both privately and professionally, is unbearable.

66. Shortly thereafter, Mr. Lynch began attending group counseling sessions for sexual abuse victims in an effort to cope with the trauma he still feels. To this day, Mr. Lynch meets with this group every week to get the help and support the Church never gave him when he most needed it.

67. The effects of the abuse on every aspect of Mr. Lynch's life cannot be fully quantified or remedied. Mr. Lynch suffers from anxiety, depression and betrayal as a result of the sexual abuse and the Diocese's and Parish's failure to prevent the abuse or to discipline the abusers.

The Diocese and the Parish Do Nothing For 20 Years

68. After the fateful meeting in February 1997, the Diocese and the Parish never contacted Mr. Lynch again. They did not properly investigate the allegations but, as is their known pattern, see supra, the Diocese and the Parish did their best to hide, conceal and cover up the potential scandal.

69. The failure by both the Diocese and the Parish to investigate or report the sexual abuse allowed Fathers Frost and Cunningham to continue working and engaging with minors and young adults. Father Frost was only removed as a priest in 2002, and, upon information and belief, that action was taken as result of financial improprieties rather than the credible allegations of abusive sexual behavior against him. Upon information and belief, and most outrageously, he became a teacher at Suffolk County Community College, calling himself "Jim Frost" on his LinkedIn profile, in an apparent attempt to distance himself from his history of abusing minors. Father Cunningham remains a priest in good standing of the Diocese.

70. For more than 20 years, the Diocese and the Parish ignored Mr. Lynch's pain and suffering.

71. Only on July 27, 2018, the Diocese offered Mr. Lynch an insignificant settlement payment, pursuant to the Independent Reconciliation and Compensation Program ("IRCP"), for Mr. Lynch to give up his claims against the Diocese.

72. The amount offered was completely inadequate to make up for the injuries and damage Mr. Lynch suffered as a minor and young adult and was not remotely commensurate with the pain, suffering and permanent injury sustained by Mr. Lynch, and did nothing to punish the Diocese and the Parish for the abuse for which they are responsible.

V. CAUSES OF ACTION

**FIRST CAUSE OF ACTION
(against Father Frost)
BATTERY**

73. Plaintiff repeats and re-alleges each of the above averments.
74. By his conduct, Father Frost intended to make bodily contact with Plaintiff.
75. Father Frost made bodily contact with Plaintiff on numerous occasions, as further described and outlined above.
76. Father Frost's intentional bodily contact was harmful and offensive in nature.
77. The conduct of Father Frost also constituted a sexual offense as defined in Article 130 of the New York Penal Law.
78. Father Frost's conduct caused and continues to cause injury, loss and damages to Plaintiff in an amount to be determined at trial.

**SECOND CAUSE OF ACTION
(against Father Cunningham)
BATTERY**

79. Plaintiff repeats and re-alleges each of the above averments.
80. By his conduct, Father Cunningham intended to make bodily contact with Plaintiff.
81. Father Cunningham made bodily contact with Plaintiff, as further described and outlined above.

82. Father Cunningham's intentional bodily contact was harmful and offensive in nature.

83. The conduct of Father Cunningham also constituted a sexual offense as defined in Article 130 of the New York Penal Law.

84. Father Cunningham's conduct caused and continues to cause injury, loss and damages to Plaintiff in an amount to be determined at trial.

**THIRD CAUSE OF ACTION
(against Father Frost)
ASSAULT**

85. Plaintiff repeats and re-alleges each of the above averments.

86. By his conduct, Father Frost unreasonably threatened to make immediate harmful and offensive contact with Plaintiff.

87. The conduct of Father Frost was intentional.

88. By his conduct, Father Frost created in Plaintiff a reasonable apprehension of immediate physical harm and offensive contact.

89. By his conduct, Father Frost presented the apparent present ability to effectuate the threats against Plaintiff.

90. The conduct of Father Frost also constituted a sexual offense as defined in Article 130 of the New York Penal Law.

91. By reason of the above, Plaintiff has been damaged in an amount to be determined at trial.

**FOURTH CAUSE OF ACTION
(against Father Cunningham)
ASSAULT**

92. Plaintiff repeats and re-alleges each of the above averments.

93. By his conduct, Father Cunningham unreasonably threatened to make immediate harmful and offensive contact with Plaintiff.

94. The conduct of Father Cunningham was intentional.

95. By his conduct, Father Cunningham created in Plaintiff a reasonable apprehension of immediate physical harm and offensive contact. .

96. By his conduct, Father Cunningham presented the apparent present ability to effectuate the threats against Plaintiff.

97. The conduct of Father Cunningham also constituted a sexual offense as defined in Article 130 of the New York Penal Law.

98. By reason of the above, Plaintiff has been damaged in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION
(against Father Frost)
FALSE IMPRISONMENT**

99. Plaintiff repeats and re-alleges each of the above averments.

100. By his conduct, Father Frost intended to confine or restrain Mr. Lynch to a bounded area.

101. During the abuse, Father Frost did confine or restrain Plaintiff to a bounded area, in particular, by using physical force as described above.

102. The conduct of Father Frost also constituted a sexual offense as defined in Article 130 of the New York Penal Law.

103. Father Frost's conduct caused and continues to cause injury, loss and damages to Plaintiff in an amount to be determined at trial.

**SIXTH CAUSE OF ACTION
(against Father Cunningham)
FALSE IMPRISONMENT**

104. Plaintiff repeats and re-alleges each of the above averments.

105. By his conduct, Father Cunningham intended to confine or restrain Mr. Lynch to a bounded area.

106. During the abuse, Father Cunningham did confine or restrain Plaintiff to a bounded area, in particular, by using physical force as described above.

107. The conduct of Father Cunningham also constituted a sexual offense as defined in Article 130 of the New York Penal Law.

108. Father Cunningham's conduct caused and continues to cause injury, loss and damages to Plaintiff in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
(against the Diocese and the Parish)
NEGLIGENT HIRING, RETENTION AND SUPERVISION

109. Plaintiff repeats and re-alleges each of the above averments.

110. The sexual abuse of minors by adults, including priests, and particularly by Fathers Frost and Cunningham, was foreseeable.

111. The Diocese and the Parish at all relevant times held the Parish and its churches to be a safe place for engaging in spiritual activities, learning and youth activities. With that, the Diocese and the Parish entered into an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

112. The Diocese and the Parish negligently hired, retained, directed and supervised Fathers Frost Cunningham as they knew or should have known that Fathers Frost and Cunningham posed a threat of sexual abuse to children and teenagers.

113. The Diocese and the Parish knew or should have known of Fathers Frost's and Cunningham's propensity for the conduct which caused Plaintiff's injuries prior to, or about the time of, the injuries' occurrence.

114. The Diocese and the Parish owed a duty of care to all minor persons, including Plaintiff, who were likely to come within influence or supervision of Fathers Frost Father Cunningham, in their role as mentor, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Fathers Frost and Cunningham did not use their assigned positions to injure minors by sexual battery, assault, abuse or sexual contact with minors and young adults.

115. Fathers Frost and Cunningham sexually abused and had sexual contact with Plaintiff on Defendants' premises, including the rectories of the Parish and the Good Sheperd Parish.

116. The Diocese and the Parish were negligent in failing properly to supervise Fathers Frost and Cunningham.

117. The Diocese and the Parish were negligent in failing properly to supervise the rectories, in particular, the Parish and Good Sheperd Parish, in order to prevent pedophiles from using these locations as an opportunity to meet, attract and abuse minors.

118. At all times material hereto, the Diocese's and Parish's actions or failures to act were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff.

119. As a direct and proximate result, Plaintiff has suffered injury, including but not limited to, severe emotional distress and economic losses which continue to this day.

120. Plaintiff claims damages in an amount to be proven at trial.

**SEVENTH CAUSE OF ACTION
(against the Diocese and the Parish)
GROSS NEGLIGENCE/NEGLIGENCE**

121. Plaintiff repeats and re-alleges each of the above averments.

122. The Diocese and the Parish, at all relevant times, had a duty to exercise reasonable care in relation to the safety and welfare of their young parishioners, including Plaintiff.

123. In particular, the Diocese had a duty to exercise reasonable care to avoid and/or protect young parishioners like Plaintiff from sexual abuse and/or to investigate and pursue complaints of criminal conduct, sexual misconduct and violations of the law against their young parishioners like Plaintiff.

124. The Diocese and the Parish owed Plaintiff such a duty of reasonable care at all relevant times, prior to, during and subsequent to Father Frost's and Father Cunningham's misconduct.

125. At the time of the abuse, it was foreseeable for the Diocese and the Parish under the circumstances that the abuse as described above would happen, was happening and/or minors were at risk that it would be or was happening.

126. The Diocese and the Parish knew, or were negligent in not knowing, that Fathers Frost and Cunningham posed a threat of sexual abuse to children and young adults, including to Plaintiff.

127. The acts of Fathers Frost and Cunningham, described above, were undertaken and/or enabled by, and/or occurred during the course of, and/or occurred within the scope of, their respective employment, appointment, assignment and/or agency with the Diocese and the Parish.

128. The Diocese's and the Parish's willful, wanton, grossly negligent and/or negligent acts and failures to act resulted directly and proximately in the injury and damages of Mr. Lynch as set forth above.

129. In particular, the Diocese and the Parish breached their duties in the following non-exhaustive ways:

- employed and/or retained improper persons in work which created the opportunity for placing others, in particular minors, at risk of harm, without adequately assessing their suitability to be in unsupervised, direct contact with minors and vulnerable persons;
- failed to introduce adequate policies, rules and training to prevent, remedy, investigate and/or report sexual abuse;
- failed adequately to supervise the activities of Fathers Frost and Cunningham;
- allowed and/or intentionally failed and/or neglected to prevent tortious conduct by persons upon the Diocese's and Parish's premises, in particular, allowed and/or enabled the acts as set forth in this Complaint to occur; and
- failed to take appropriate remedial actions upon learning of tortious conduct by persons under their control and on their premises, in particular upon learning of the sexual abuse of Mr. Lynch by two of their priests.

130. As a direct and proximate result of the Diocese's and Parish's grossly negligent and/or negligent conduct, Plaintiff has suffered injuries, including but not limited to severe emotional distress and economic losses, which continue to this day.

131. Plaintiff claims damages in an amount to be proven at trial.

EIGHTH CAUSE OF ACTION
(against all Defendants)
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

132. Plaintiff repeats and re-alleges each of the above averments.

133. Defendants engaged in extreme and outrageous conduct with the intention of causing or with reckless disregard of the probability of causing Plaintiff severe and extreme emotional distress.

134. Fathers Frost and Cunningham acted in the course of their employment and/or assignment with the Diocese and/or Parish, while exhibiting intentional disregard for the emotional wellbeing of Plaintiff.

135. The Diocese and the Parish treated Plaintiff with extreme and outrageous behavior by failing to prevent and stop Fathers Frost and Cunningham, conspiring with them to conceal their sexual abuse, subjecting Plaintiff to a traumatizing confrontation with his abusers, and failing to provide Plaintiff with any sort of relief or help for more than twenty years.

136. Defendants' conduct toward Plaintiff was extreme and outrageous in character and so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.

137. Due to the outrageous conduct of Defendants, Plaintiff has suffered and continues to suffer significant and enduring mental anguish and trauma as well as physical pain and suffering.

138. The damage caused has plagued and will continue to plague Plaintiff for the remainder of his life.

139. As a direct result of the intentional actions of Defendants, Plaintiff has suffered severe emotional distress which continues to this day.

140. Plaintiff claims damages in an amount to be determined at trial.

NINTH CAUSE OF ACTION
(against all Defendants)
NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

141. Plaintiff repeats and re-alleges each of the above averments.

142. As described above, the actions of the Defendants were conducted in a negligent manner.

143. Defendants' actions endangered Plaintiff's safety and caused him to fear for his own safety and wellbeing.

144. As a direct result of the actions of Defendants, which included but were not limited to, negligent conduct, Plaintiff has suffered severe emotional distress which continues to this day.

145. Plaintiff claims damages in an amount to be determined at trial.

TENTH CAUSE OF ACTION
(against all Defendants)
BREACH OF FIDUCIARY DUTY

146. Plaintiff repeats and re-alleges each of the above averments.

147. Plaintiff was raised Catholic, observing Catholic tradition, attending church every Sunday and going to Catholic Schools. He was raised to put faith in the Catholic church, the Diocese, the Parish and the priests and he did in fact put his trust in Defendants for his moral and spiritual welfare.

148. After his father's sudden death, Plaintiff looked up to the priests of the Diocese and the Parish as father figures and role models, in particular to Fathers Frost and Cunningham.

149. Due to the inability of Plaintiff's family to pay for his tuition at Cathedral Prep, Plaintiff felt indebted to the Church for letting him attend school without tuition.

150. Considering the close ties between Plaintiff and the Diocese and the Parish, Plaintiff considered priesthood and became even more involved with the Church, the Diocese and the Parish, attending masses, working as an altar boy and working in the rectory of the Parish.

151. As a result, Defendants created a unique degree of trust and confidence with Plaintiff and Plaintiff was taught to respect and defer to, and did respect and defer to, the authority of the clergy and priests, in particular Defendants.

152. As a result, the Defendants, in particular the Diocese and the Parish, had a fiduciary relationship of trust, confidence and reliance with Plaintiff. The relationship of trust, confidence and reliance between the Plaintiff and Defendants is based on the entrustment of Plaintiff while he was a minor to the care and supervision of the Defendants.

153. This entrustment of Plaintiff to the care and supervision of the Defendants required the Defendants to assume fiduciary responsibility and to act in the best interest of Plaintiff to protect him.

154. Defendants breached their fiduciary duties to Plaintiff. Fathers Frost and Cunningham breached theirs by abusing and mishandling Plaintiff for their own pleasure with complete disregard of the effect their actions had and would forever have on Plaintiff. The Diocese and the Parish breached their fiduciary duty by allowing, enabling, concealing and failing to investigate and remedy the sexual abuse. In particular, the Diocese and the Parish:

- employed and/or retained improper persons in work which created the opportunity for placing others, in particular minors, at risk of harm , without adequately assessing their suitability to be in unsupervised or to have direct contact with minors and vulnerable persons;
- failed to introduce adequate policies, rules, safeguards and training to prevent, remedy, investigate and/or report sexual abuse;
- failed adequately to supervise the activities of Fathers Frost and Cunningham;
- allowed and/or intentionally failed to prevent tortious conduct by persons upon the Diocese's and Parish's premises, in particular, allowed and/or enabled the acts as set forth in this Complaint to occur; and
- failed to take appropriate remedial actions upon learning of tortious conduct by persons under their control and on their premises, in particular upon learning of the sexual abuse of Mr. Lynch by two of their priests.

155. Defendants' actions and omissions were intentional, reckless and outrageous in their disregard of the rights and safety of Plaintiff.

156. As a direct and proximate result of Defendants' breaches of fiduciary duties, Plaintiff has suffered injury, loss and damages, which continue to this day, in an amount to be determined at trial.

ELEVENTH CAUSE OF ACTION
(against all Defendants)
CIVIL CONSPIRACY

157. Plaintiff repeats and re-alleges each of the above averments.

158. Defendants and persons working for the Diocese and/or the Parish were involved in a civil conspiracy to allow, enable, hide, conceal or otherwise cover up sexual abuse and misconduct on minor parishioners.

159. In particular, the Diocese and/or the Parish had various agreements among themselves to shield or otherwise protect their pedophile priests from discovery.

160. In furtherance of these agreements, for example, Father Frost was moved from parish to parish, including to the Defendant Parish, to conceal his tortious acts and enable him to continue with his tortious acts, in particular, the sexual abuse of minors.

161. The conspiracy allowed Father Frost to commit sexual abuse of minors for decades and, in particular, to engage in the prolonged sexual abuse of Mr. Lynch as described above.

162. The agreements between and among the Defendants, and their intentional acts and omissions in furtherance thereof, directly and proximately cause Mr. Lynch's injuries and damage, which continues to this day, in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

Plaintiff is entitled to and hereby demands a jury trial in this matter..

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Robert P. Lynch respectfully prays that this Court will:

a) Enter judgment against Defendants, jointly and severally, in such amounts as will fully and adequately compensate Plaintiff for the damages suffered, in an amount to be determined at trial;

b) Award Plaintiff punitive damages against Defendants, jointly and severally, in an amount to be determined at trial;

c) Award Plaintiff pre- and post-judgment interest;

d) Award Plaintiff his actual expenses of litigation, including reasonable attorneys' fees;

e) Award Plaintiff injunctive relief that requires the Roman Catholic Diocese of Brooklyn to put in place (and fund) supervision and compliance protocols that actually prevent, uncover and stop the sexual abuse of parishioners; and

f) Such other and further relief as this Court may deem just and proper.

Dated: New York, New York
August 14, 2019

SULLIVAN & WORCESTER LLP

By: /s/Peter R. Ginsberg
Peter R. Ginsberg
Anna Lea Setz

1633 Broadway
New York, New York 10019
(212) 660-3000
prginsberg@sullivanlaw.com
asetz@sullivanlaw.com

Attorneys for Plaintiff